

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

R-MART TRAILERS LLC, Plaintiff, v. MP CUSTOM TRAILERS LLC Defendants.
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Case No. 5:24-cv-87

JURY TRIAL DEMANDED

Plaintiff R-Mart Trailers LLC (“R-Mart” or “Plaintiff”) files this Original Complaint against Defendant MP Custom Trailers LLC (“MP Custom” or “Defendant”), for trademark infringement and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A), and common law trademark infringement and unfair competition under Texas state law, arising out of Defendant’s unauthorized use of Plaintiff’s trademark, “R-MART,” in connection with the advertising, marketing, and sale of utility trailers.

Plaintiff seeks: (1) actual, treble, and exemplary damages from Defendant as well as an accounting of profits; (2) an order for a permanent injunction, and (3) Plaintiff’s reasonable attorneys’ fees, costs, and expenses incurred in this action.

SUMMARY OF ACTION

1. This is an action for trademark infringement and unfair competition under federal and state laws.
2. Plaintiff, R-Mart, discovered that Defendant MP Custom was advertising and offering for sale utility trailers online and elsewhere using the trademark “RMART,” which is effectively identical to Plaintiff’s trademark “R-MART.”
3. Defendant has advertised and offered for sale trailers under the infringing “RMART” mark on several websites, including Ritchie Bros. TRUCK PLANET (www.rbauktion.com), Ritchie Bros. GOV PLANET (www.govplanet.com), and Cars From West (www.carsfromwest.com), and, upon information and belief, in other online and offline

platforms.

4. Such use of a nearly identical trademark to R-Mart's R-MART trademark has resulted in substantial and continuous harm to R-Mart.

PARTIES

5. Plaintiff, R-Mart Trailers LLC, is a limited liability company organized under the laws of the State of Texas, with its principal place of business located at 875 CR 4815 Mount Pleasant, Texas 75455-8680.

6. Upon information and belief, Defendant, MP Custom Trailers LLC, is a limited liability company organized under the laws of the State of Texas, with its principal place of business located at 5820 US Highway 67 East, Cookville, Texas 75558-5142.

7. Upon information and belief, MP Custom is directly engaging in the advertising, marketing, and/or sale of infringing utility trailers within this Judicial District.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) because these claims involve federal questions related to claims for trademark infringement arising under the federal Lanham Act.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) in that, among other things, the Defendant resides in this judicial district, a substantial part of the events or omissions giving rise to the claims herein occurred in this judicial district and the effects of Defendant's wrongful actions have been felt by R-Mart in this judicial district.

10. Venue is proper under 28 U.S.C. §§ 1400(a) and 1391(b).

FACTS COMMON TO ALL CLAIMS

11. Plaintiff, R-Mart, is a family business that manufactures, sells, and services utility trailers used for hauling, dumping, transportation, and other purposes within the heavy construction, commercial, and residential work industries.

12. R-Mart has a long history of trailer fabrication in Texas. Mr. Ranulfo Martinez, R-Mart's principal, built trailers in Mount Pleasant, Texas for 18 years at another trailer manufacturing company. With his experience and family support, R-Mart Trailers was created in 2018 with the assistance of family members.

13. As a result of the high-quality artisan-like craftsmanship that is employed in building the trailers, the public has come to associate the R-MART trademark with a high-quality product, and as such, the trademark has gained a high degree of goodwill in the marketplace for utility trailers.

14. R-Mart has used the trademark "R-MART" in connection with its trailers and related services in commerce since at least as early as June 27, 2020.

15. The R-Mart trademark at issue in this case has been continuously used in interstate commerce and has never been abandoned.

16. In June 2024, R-Mart discovered that Defendant MP Custom was advertising and offering for sale utility trailers online and elsewhere using the trademark "RMART," which is essentially identical to Plaintiff's trademark "R-MART."

17. Defendant has advertised and offered for sale trailers under the "RMART" mark on several websites, including Ritchie Bros. TRUCK PLANET (www.rbauktion.com), Ritchie Bros. GOV PLANET (www.govplanet.com), and Cars From West (www.carsfromwest.com).

18. On June 24, 2024, R-Mart sent a cease-and-desist letter to Mr. Mario Mendez, who is understood to be the owner of MP Custom, demanding that MP Custom cease its unauthorized use of the "RMART" trademark.

19. On July 1, 2024, Mr. Mendez responded via email admitting that MP Custom used the "RMART" trademark in connection with the sale of its trailers but claimed it was "unintentional."

20. Specifically, Mr. Mendez explained that the use of the "RMART" trademark was due to a VIN (vehicle identification number) decoding submission to the United States Department of

Transportation (DOT), which resulted in VINs being assigned to MP Custom's trailers that contained the "RMART" trademark.

21. Upon information and belief, MP Custom submitted multiple VIN decoding submissions to the DOT indicating the make of the trailer as "RMART," creating confusion and a likelihood of confusion in the marketplace as to the true source of MP Custom's products.

22. To date, no credible reason has been provided to R-Mart as to why its trademark was used in MP Custom's VIN numbers.

23. MP Custom has no license, authority, or other permission from R-Mart to use its R-MART trademark.

24. The foregoing acts of Defendant constitute direct trademark infringement in violation of federal and state law.

25. These acts are intended to cause, have caused, and or are likely to continue to cause confusion or mistake, or to deceive consumers, the public, and the trade into believing that the trailers bearing VINs containing R-Mart's trademark that are offered for sale and sold by Defendant and third parties are authentic or authorized products of Plaintiffs.

26. Furthermore, MP Custom is engaging in the above-described infringement knowingly, or with reckless disregard or willful blindness to R-Mart's rights for the purpose of trading on the goodwill and reputation of R-Mart.

27. MP Custom's knowing and deliberate use of the RMART trademark is not only willful and malicious, but has caused, and continues to cause, substantial and irreparable harm to R-Mart's goodwill and reputation.

28. Furthermore, MP Custom has advertised and sold trailers bearing VINs that indicate the manufacturer is R-Mart, when in fact, the manufacturer is MP Custom, R-Mart is at risk of irreparable harm because in the event an accident occurs that is due, in part, to the lack of quality of MP Custom's trailers, R-Mart would be wrongly accused of placing an unsafe product into the stream of commerce when in fact, it did not.

CLAIMS FOR RELIEF

COUNT I

**Trademark Infringement in Violation of
Section 43(A)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A))**

29. R-Mart repeats and realleges the preceding paragraphs as if set forth herein.

30. The acts of Defendant, MP Custom, alleged herein constitute the use in interstate commerce of a word, term, name, symbol, or device, or any combination of it, or false designation of origin, in connection with the sale, or offering for sale, of goods in violation of section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

31. These acts of MP Custom are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of MP Custom with R-Mart, or as to the origin, sponsorship, or approval of Defendants' utility trailers and related repair services with the identical products of MP Custom.

32. MP Custom's use of the infringing RMART mark was willful, intentional, and/or with reckless disregard or willful blindness and was done with knowledge that the infringing RMART mark would cause a likelihood of confusion.

33. R-Mart has no adequate remedy at law for the foregoing wrongful conduct. R-Mart has been, and absent injunctive relief, will continue to be irreparably harmed by MP Custom's actions.

COUNT II

Common Law Trademark Infringement

34. Plaintiffs R-Mart repeats and realleges the preceding paragraphs as if fully set forth herein.

35. This is an action for common law trademark infringement against Defendant MP Custom

based on their promotion, advertisement, offering for sale, and sale of products bearing a trademark and indicator of source that is identical to, or substantially indistinguishable from, the R-MART trademark owned by R-Mart in violation of the common law of the State of Texas.

36. Specifically, MP Custom is promoting and otherwise advertising, offering for sale, selling, and distributing infringing products bearing the R-Mart's R-MART trademark.

37. MP Custom's infringing activities are likely to cause, and are causing, confusion, mistake, and deception among members of the trade and the general consuming public as to the origin and quality of MP Custom's products.

38. R-Mart is the senior user of the R-MART trademark, and the marks are protectable.

39. Under Texas common law, Plaintiff is entitled to recover from Defendant actual damages and destruction of the infringing material. Further, due to Defendant's knowing and bad faith activities, which have defrauded Plaintiffs and the consuming public alike, Plaintiffs are likewise entitled to recover exemplary damages as well as their reasonable attorney's fees.

COUNT III

Unfair Competition in Violation of Texas Common Law

40. R-Mart repeats and realleges the preceding paragraphs as if set forth herein.

41. This is an action for common law unfair competition against MP Custom based on its promotion, advertisement, offering for sale, and sale of products bearing trademarks or indicators of source that are identical to, or substantially indistinguishable from, the R-MART trademark

42. MP Custom's infringing activities, as set forth herein, constitute materially false and misleading misrepresentations of fact with respect to the origin of its goods, and the affiliation, sponsorship, and approval of MP Custom's goods in violation of Texas state law.

43. Under Texas common law, Plaintiff is entitled to recover from MP Custom actual damages and destruction of the infringing products. Further, due to MP Custom's knowing and bad faith activities, which have defrauded R-Mart and the consuming public alike, R-Mart is likewise entitled

to recover exemplary damages as well as its reasonable attorney's fees.

DEMAND FOR JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38, Plaintiffs hereby demand a trial by jury on their claims alleged against Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff R-Mart Trailers LLC prays for judgment against Defendant, MP Custom LLC granting the following relief:

1. A declaration that:
 - a) MP Custom's use of the RMART mark or any other mark that is likely to cause confusion with R-Mart's R-MART mark in connection with the sale of trailers and the service of same infringes R-Mart's rights in its R-Mart trademark in violation of § 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A);
 - b) MP Custom's use of the RMART mark or any other mark that is likely to cause confusion with R-Mart's R-MART mark in connection with the sale of trailers and the service of same constitutes unfair competition under Texas common law.
 - c) Defendants' acts were intentional and willful.
2. A preliminary and permanent injunction restraining MP Custom, and all persons in active concert or participation with them, or any of them who receive actual notice of the injunctions prayed for herein by personal service or otherwise, from:
 - a) Using the R-MART trademark, or any trademark or designation of origin that is confusingly similar thereto, on or in connection with the, advertisement, offering for sale, sale of goods, or provision of any services;
3. An order directing MP Custom, under 15 U.S.C. § 1116(a), file with the Court and serve upon counsel for R-Mart, within thirty (30) days after the service on MP Custom of the injunctions prayed for herein, a written report under oath setting forth in detail the manner and

form in which it has complied with the injunctions; and

4. An order directing MP Custom, under 15 U.S.C. § 1125(a), to pay R-Mart money damages sustained by it as a result of MP Custom's infringement, including MP Custom's profits, plus the costs of this action; and

5. Award R-Mart its actual and exemplary damages under Texas law;

6. An order directing MP Custom to pay R-Mart other damages allowable by law; and

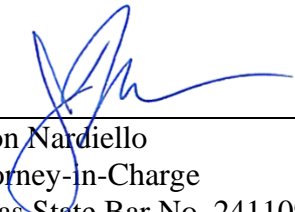
7. In accordance with 15 U.S.C. § 1118, order all trailers and other materials in MP Custom's possession or control bearing the R-MART trademark, or any other mark that is similar in sight, sound, or meaning to the R-MART trademark to be surrendered for destruction;

8. Award R-Mart pre-judgment and post-judgment interest at the maximum allowable interest rate; and

9. An order granting R-Mart such other and further relief as the Court may deem just and proper.

Dated: July 9, 2024

Respectfully submitted,



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